

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Amendment of Section 73.202(b),	)	MB Docket No. 06-193
Table of Allotments,	)	RM-11345
FM Broadcast Stations.	)	
(Stamford, Connecticut, and	)	
Port Chester, New York)	)	

**REPORT AND ORDER  
(Proceeding Terminated)**

**Adopted: May 23, 2007**

**Released: May 25, 2007**

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division of the Media Bureau has before it for consideration the *Notice of Proposed Rule Making*<sup>1</sup> proposing changes in the FM Table of Allotments, 47 C.F.R. § 73.202(b). In response to a Petition for Rule Making filed by Cox Radio, Inc. (“Cox”), licensee of Station WCTZ(FM), Channel 244A, Stamford, Connecticut, the *Notice* proposes to change the community of license for Station WCTZ(FM) from Stamford, Connecticut, to Port Chester, New York. and to reallocate Channel 244A at Port Chester.<sup>2</sup>

2. Cox’s request was filed pursuant to the provisions of Section 1.420(i) of the Commission’s Rules, which permits the modification of a station’s authorization to specify a new community of license without affording other interested parties the opportunity to file competing expressions of interest in the proposed allotment.<sup>3</sup> Cox, which does not propose any change in the transmitter site for Station WCTZ(FM), represents that if its request is granted, it will timely apply for authorization to operate Station WCTZ(FM) on Channel 244A at Port Chester, New York. Cox filed comments supporting the changes. No other comments were received.

3. In determining whether to approve a change of community, we compare the existing versus the proposed arrangement of allotments using the FM allotment priorities set forth in *Revision of FM*

<sup>1</sup> *Stamford, Connecticut, and Port Chester, New York*, Notice of Proposed Rule Making, 21 FCC Rcd 14,733 (MB 2006) (“*Notice*”).

<sup>2</sup> Subsequent to the filing of the Petition for Rule Making, Cox changed the station call sign from WKHL(FM) to WCTZ(FM).

<sup>3</sup> See *Modification of FM and TV Authorizations to Specify a New Community of License*, Report and Order, 4 FCC Rcd 4870 (1989), *recon. granted in part*, Memorandum Opinion and Order, 5 FCC Rcd 7094 (1990).

*Assignment Policies and Procedures*.<sup>4</sup> Retention of Channel 244A at Stamford, which will continue to be served by full-time Station WSTC(AM), Stamford, Connecticut, and by noncommercial educational Station WEDW-FM, would satisfy only the fourth allotment priority, “other public interest matters.” The proposed reallocation of Channel 244A at Port Chester, New York, would satisfy the third allotment priority, “first local service,” and therefore is preferred under the Commission’s allotment priorities.

4. Both Stamford and Port Chester are located within the Bridgeport/Stamford Urbanized Area, and the change of community, which does not involve a change in transmitter site, would not increase the signal coverage of that urbanized area. Under the circumstances, no *Tuck* analysis is necessary.<sup>5</sup>

5. Station WCTZ(FM) is a pre-1964 station with grandfathered short-spacings. We recognize that the proposed change of community would create a new short-spaced allotment in contravention of Section 73.207 of the Commission’s rules. We have held, however, that a grandfathered FM station that was in compliance with the Commission’s rules when authorized should be allowed to change its community of license at its existing transmitter site.<sup>6</sup>

6. Port Chester, New York, an incorporated village of 27,867 persons, is deserving of its own local service. For all of the foregoing reasons, we conclude that the public interest would be served by reallocating Channel 244A at Port Chester, New York. Channel 244A can be allotted at Port Chester in compliance with the Commission’s Rules at Station WCTZ(FM)’s existing transmitter site: 41-02-49 NL and 73-31-36 WL, with a site restriction of 12.8 kilometers (7.9 miles) northeast of Port Chester.<sup>7</sup> Cox will be required to specify its current licensed site for Station WCTZ(FM), Stamford, Connecticut, for the applications for a construction permit and a license for Station WCTZ(FM), Port Chester, New York.<sup>8</sup>

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<sup>4</sup> The FM allotment priorities are: (1) first full-time aural service; (2) second full-time aural service; (3) first local service; and (4) other public interest matters. Co-equal weight is given to priorities (2) and (3). See *Revision of FM Assignment Policies and Procedures*, Second Report and Order, 90 FCC 2d 88, 91 (1982), *recon. denied*, 56 RR 2d 448 (1983).

<sup>5</sup> *Faye and Richard Tuck*, Memorandum Opinion and Order, 3 FCC Rcd 5374 (1988) (“*Tuck*”), and *East Los Angeles, Long Beach, and Frazier Park, California*, Report and Order, 10 FCC Rcd 2864 (MMB 1995) (changing a community of license within the same urbanized area does not require a *Tuck* showing).

<sup>6</sup> *Glasgow and Bowling Green, Kentucky*, Report and Order, 19 FCC Rcd 8477 (MB 2004) (“*Glasgow*”), and cases cited therein.

<sup>7</sup> Because Cox does not propose to change the transmitter site of Station WCTZ(FM), it is appropriate to use actual facilities and terrain in determining that the existing 70 dBu contour covers the entire community of Port Chester, New York. See *Woodstock and Broadway, Virginia*, Memorandum Opinion and Order, 3 FCC Rcd 6398 (1988), and *Freemont and Sunnyvale, California*, Notice of Proposed Rulemaking, 16 FCC Rcd 20,530 (MMB 2001).

<sup>8</sup> See *Glasgow*, *supra*.

7. The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act.<sup>9</sup>

8. Accordingly, pursuant to the authority found in 47 U.S.C. Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b), and 47 C.F.R. Sections 0.61, 0.204(b), 0.283, and 1.420(i), IT IS ORDERED, That effective July 9 2007, the Media Bureau's Consolidated Database System will reflect Channel 244A at Port Chester, New York, as the reserved assignment for Station WCTZ(FM), in lieu of Channel 244A in Stamford, Connecticut.

9. IT IS FURTHER ORDERED, That pursuant to 47 U.S.C. Section 316(a), the license of Cox, Inc., for Station WCTZ(FM), Channel 244A, Stamford, Connecticut, IS MODIFIED to specify operation on Channel 244A at Port Chester, New York, subject to the following conditions:

(a) Within 90 days of the effective date of this *Order*, the licensee shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facility;

(b) Upon grant of the construction permit, program tests may be conducted in accordance with 47 C.F.R. Section 73.1620; and

(c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to 47 C.F.R. Section 1.1307, unless the proposed facilities are categorically excluded from environmental processing.

10. Pursuant to 47 C.F.R. Sections 1.1104(1)(k) and (2)(k), Cox, Inc., licensee of Station WCTZ(FM), is required to submit a rule making fee in addition to the fee required for the applications to effectuate the changes specified above.

11. IT IS FURTHER ORDERED, That the Secretary of the Commission shall send by Certified Mail Return Receipt Requested, a copy of this Order to the following:

Kevin F. Reed, Esq.  
Christina H. Burrow, Esq.  
Robert J. Folliard, III, Esq.  
Dow Lohnes PLLC  
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12. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

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<sup>9</sup> See 5 U.S.C. §801(a)(1)(A).

13. For further information concerning this proceeding, contact Deborah Dupont, Media Bureau, (202) 418-7072.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos  
Assistant Chief  
Audio Division  
Media Bureau